



INDIANA UTILITY REGULATORY COMMISSION
302 W. WASHINGTON STREET, SUITE E-306
INDIANAPOLIS, INDIANA 46204-2764

<http://www.state.in.us/iurc/>
Office: (317) 232-2701
Facsimile: (317) 232-6758

PETITION OF TIME WARNER TELECOM OF)
INDIANA, L.P. FOR CONFIDENTIAL AND)
PROPRIETARY TREATMENT OF PORTIONS)
OF ITS 2003 LOCAL COMPETITION SURVEY)

CAUSE NO. 42606

FILED

MAY 05 2004

INDIANA UTILITY
REGULATORY COMMISSION

You are hereby notified that on this date the Presiding Officer makes the following Entry in this Cause:

On March 30, 2004, Time Warner Telecom of Indiana, L.P. ("TWTC") filed its *Petition for Confidential and Proprietary Treatment of Portions of End of the Year 2003 Local Competition Survey* ("Petition") with the Indiana Utility Regulatory Commission ("Commission"), seeking confidential treatment of the following designated responses to the Commission-issued *Local Competition Survey As Of 12/31/03* ("Survey"):

- The number of facilities based and special access lines provided to residential and nonresidential end users in each of three geographic regions (north, central and south) of the State, as requested in Sections II(A) and II(E) of the Survey.
- The total number of facilities based and special access lines provided to residential and nonresidential end users and to other carriers in the same three geographic regions of the State, as requested in Sections IV(A) and IV(E) of the Survey.

The Survey responses that are the subject of TWTC's confidentiality claim are applicable to the twelve-month period ending December 31, 2003, and were due to be submitted to the Commission by March 31, 2004.

TWTC seeks this confidential protection pursuant to the Commission's procedural rule found at 170 IAC 1-1.1-4, and relies on the trade secret exception to public disclosure of public records found at Ind. Code 5-14-3-4 and 24-2-3-2 as the basis for its confidentiality claim.

Accompanying the Petition was the *Affidavit of Pamela H. Sherwood* ("Affidavit"). Pamela H. Sherwood is TWTC's Vice President of Regulatory, Midwest Region. In support of TWTC's claim that the designated responses to the Survey contain trade secret information, the Affidavit states:

Because TWTC provides service to only one of the geographic areas disaggregated on the survey, and via only one mode of offering (facilities-based lines), SBC and other TWTC competitors will gain actual knowledge of the scope and number of the TWTC lines to end users in the area that they would otherwise not have if the Designated Portion of the Local Competition Survey remained confidential. In addition, competitors could use this information, such as the level of investment in infrastructure or number of access lines, in their marketing and/or discussions with potential customers to their own advantage by skewing the data to suggest that a particular CLEC is not a viable provider of service. TWTC would suffer substantial harm to its competitive position if other carriers were to obtain the information in the Designated Portion of the Local Competition Survey.

The Affidavit also asserts that the responsive information contained in these designated portions of the Survey is considered proprietary by TWTC, and is internally protected from disclosure. The Affidavit states that this information is provided only to senior management and a restricted list of employees who have a particular need to know the information.

The Presiding Officer, having reviewed the Petition and its accompanying Affidavit, finds that there is a sufficient basis for a preliminary determination of confidentiality with respect to the designated Survey responses that are identified above. The Affidavit contains a sufficient description of the nature of the information for which confidential treatment is sought. The Affidavit presents factual information sufficient to show that the designated Survey responses, due to be submitted to the Commission by March 31, 2004, contain information that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. The Affidavit also presents factual information sufficient to show that TWTC has made efforts that are reasonable under the circumstances to maintain secrecy of the information for which confidential treatment is sought.

Accordingly, within seven (7) days of the date of this Entry, TWTC should hand deliver to Commission Principal Telecommunications Analyst Mark Bragdon, in a sealed envelop that is clearly marked "confidential" and with the Cause Number noted thereon, its responses to:

- The number of facilities based and special access lines provided to residential and nonresidential end users in each of three geographic regions (north, central and south) of the State, as requested in Sections II(A) and II(E) of the Survey.
- The total number of facilities based and special access lines provided to residential and nonresidential end users and to other carriers in the same three geographic regions of the State, as requested in Sections IV(A) and IV(E) of the Survey.

This responsive information should be handled and maintained as confidential, in accordance with Ind. Code 5-14-3.

IT IS SO ORDERED.

William A. Divine
William G. Divine, Administrative Law Judge

May 5, 2004
Date

Nancy E. Manley
Nancy E. Manley, Secretary to the Commission